



THE ATTORNEY GENERAL OF TEXAS

AUSTIN, TEXAS 78711

CRAWFORD C. MARTIN

ATTORNEY GENERAL

February 28, 1972

Honorable Maurice S. Pipkin
Executive Director
Judicial Qualifications Commission
Supreme Court Building
Austin, Texas 78711

Opinion No. M-1092

Re: Source of pay for an
active or retired judge
or justice who sits as
master in a proceeding
before the Judicial
Qualifications Commission.

Dear Mr. Pipkin:

Your request for an opinion poses the following questions:

"1. When an active or retired judge or justice is appointed to sit as a Master in a proceeding before the Judicial Qualifications Commission, should the per diem of \$25.00 for each day, or fraction thereof, be paid from Judicial Qualifications Commission funds, or from the \$57,000.00 per year allocated in the Appropriation Bill to the Comptroller's Department?"

"2. When an active or retired judge or justice is appointed to sit as a Master in a proceeding before the Judicial Qualifications Commission, should the differential pay, due in the case of a retired judge, be paid from Judicial Qualifications Commission funds or from the \$57,000.00 per year allocated in the Appropriation Bill to the Comptroller's Department?"

The appointment of a "Master" before the Judicial Qualifications Commission is authorized by the provisions of Section 1-a of Article V of the Constitution of Texas and the enabling act, Article 5966a, Vernon's Civil Statutes. Section 12 of Article 5966a provides:

"Sec. 12. Any active district judge or justice of the court of civil appeals appointed to act as master under said Section 1-a shall, in addition to and cumulative of all other compensation and expenses authorized by law, receive, while in the performance of their duties as master, a per diem of \$25 for each day, or fraction thereof, spent in the performance

of their duties as such master. Any retired judge or justice of the court of civil appeals appointed to act as such master shall receive while in the performance of their duties as such master a per diem of \$25 for each day or fraction thereof spent in the performance of their duties as master and in addition an amount representing the difference between all of the retirement benefits of such judge as a retired judge and the salary and compensation received from the state by active district judges or justices of the court of civil appeals as the case might be. Such retirement allowances shall continue to be paid by and from the same source as in the instance of a retired judge who had not been assigned duties. Payments of the additional amounts provided for by this section shall be upon certificates of approval by the State Judicial Qualifications Commission."

Item 2 of the appropriation to the Judicial Qualifications Commission in the current General Appropriations Act makes the following appropriation for the fiscal year ending August 31, 1972:

"For the Year Ending
August 31,
1972

"1. . . .

"2. For necessary expenses in carrying out the provisions of Article 5, Section 1a, of the Constitution, for salaries, wages and travel of employees, and travel and other actual expenses of Commission members, and capital outlay, current and recurring operating and other expenses \$28,380"

In view of the fact that the expenses and compensation provided in Section 12 of Article 5966a, Vernon's Civil Statutes, are necessary expenses in carrying out the provisions of Article V, Section 1-a, Texas Constitution, it is our opinion that the above quoted item may be expended for such purpose. We do not find any appropriation to the Comptroller's office for such purpose.

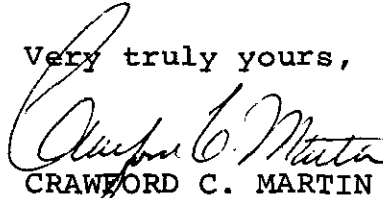
You are accordingly advised that the compensation and

expenses authorized under Section 12 of Article 5966a, Vernon's Civil Statutes, are payable from Item 2 of the appropriation to the State Judicial Qualifications Commission.

S U M M A R Y

The compensation and expenses provided in Section 12 of Article 5966a, Vernon's Civil Statutes, for a master appointed pursuant to the provisions of Section 1-a of Article V of the Constitution of Texas and Article 5966a, Vernon's Civil Statutes, are payable out of Item 2 of the appropriation to the State Judicial Qualifications Commission in the current General Appropriations Act.

Very truly yours,



CRAWFORD C. MARTIN
Attorney General of Texas

Prepared by John Reeves
Assistant Attorney General

APPROVED:
OPINION COMMITTEE

Kerns Taylor, Chairman
W. E. Allen, Co-Chairman
Ben Harrison
Bob Gauss
Linward Shivers
Max Hamilton

SAMUEL D. McDANIEL
Staff Legal Assistant

ALFRED WALKER
Executive Assistant

NOLA WHITE
First Assistant